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CIS

Calendar No. 778

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-539

EXCHANGE OF CERTAIN LANDS IN NEW MEXICO AND ADDITION TO THE SANDIA MOUNTAIN WILDERNESS, NEW MEXICO

SEPTEMBER 9 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. DOMENICI (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2405]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2405) to further amend the boundary of the Cibola National Forest to allow an exchange of lands with the City of Albuquerque, New Mexico, having considered the same, reports favorably thereon with an amendment to the text in the nature of a substitute and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That, in order to expedite the acquisition of land authorized by the Act of November 8, 1978 (92 Stat. 3095, as amended), that Act is hereby amended as follows:

(a.) Amend section 1 to read as follows:

"A tract of land containing that part of the land described in the Elena Gallegos Grant, illustrated on maps on file with the Chief of the Forest Service, Department of Agriculture, lying east of a line depicted on plat of survey dated April 1982, prepared under the supervision of A. Dwain Weaver, N.M.P.L.S. No. 6544, and further described as beginning at the closing corner between sections 35 and 36 of Township 11 North, Range 4 East, NMPM, on the south boundary of said Grant and extending N. 00°03'21" E., 2,670.40 feet to a point; thence N. 00°03'21" E., 1,244.73 feet to the projected section corner common to sections 25, 26, 35, and 36; thence continuing along section line common to said sections 25 and 26, N. 00°17'37" E., 1,346.11 feet to a point; thence leaving said section line and continuing S. 84°40'00" E., 178.00 feet to a point; thence S. 53°20'00" E., 218.00 feet to a point; thence N. 52°50'00" E., 364.00 feet to a point; thence East 225.00 feet to a point; thence N. 66°00'00" E., 1,244.14 feet to a point; thence N. 06°12'25" W., 1,765.08 feet to a point; thence N. 07°27'00" W., 2,008.00 feet to a point; thence S. 80°38'00" W., 984.00 feet to a point; thence S. 64°45'00" W., 621.00 feet to the projected section corner common to sections 23, 24, 25, and 26; thence N. 00°44'22" W., 1,382.97 feet to the southeast corner of Sandia Heights

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South, Unit 14, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on February 12, 1975; thence continuing along the easterly boundary of said Unit 14, 00°04'20" E., 1,951.63 feet to the northeast corner of said Unit 14, said corner also being the southeast corner of Sandia Heights South, Unit 10, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on March 11, 1974; thence continuing along the easterly boundary of said Unit 10, N. 00°02'31" E., 1,493.53 feet to the northeast corner of said Unit 10, said corner also being the southeast corner of Sandia Heights South, Unit 3, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on August 3, 1971; thence continuing along the easterly boundary of said Unit 3, N. 00°03'29" E., 1,867.10 feet to the northeast corner of said Unit 3, said corner also being the southeast corner of Sandia Heights South, Unit 2, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on October 20, 1970; thence continuing along the easterly boundary of said Unit 2, N. 00°03'29" E., 1,869.70 feet to the northeast corner of said Unit 2, said corner also being the southeast corner of Sandia Heights South, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on June 20, 1966; thence continuing along the easterly boundary of said Sandia Heights South, N. 00°03'29" E., 1,725.76 feet to the Northwest of the tract herein described, said corner being a point on the northerly boundary of the Elena Gallegos Grant; thence continuing along said Grant boundary, S. 81°06'04" E., 1,983.01 feet to a point; thence S. 81°06'04" E., 481.50 feet to the 7½-mile corner on the north boundary of said Grant; thence S. 81°06'04" E., 213.67 feet to the soutreast corner of the Sandia Pueblo Grant; consisting of 7,935.84 acres, more or less:"

(b) Add a new section 5 to read as follows:

"SEC. 5. (a) Notwithstanding any other provision of law, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, is authorized and directed to acquire the lands described in section 1 in lieu of purchase as authorized by section 4 of this Act by exchanging with the City of Albuquerque so much of the Federal lands administered by the Forest Service and Bureau of Land Management in the State of New Mexico and consisting of approximately 32,800 acres, more or less, as the Secretary of Agriculture and the Secretary of the Interior determine are needed to equal the value of the land conveyed by the City of Albuquerque.

"(b) The lands to be conveyed are subject to valid existing rights.

"(c) Transactions necessary to effect the exchange authorized by this section shall be made pursuant to the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and other applicable law except to the extent necessary to expeditiously carry out the provision of this section and shall be made within 90 days of enactment of this Act: *Provided*, That the rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed.".

PURPOSE OF THE MEASURE

The purpose of S. 2405, as reported, is to expedite the acquisition of a 7,935.84 acre portion of the Elena Gallegos Grant so that a portion may be added to the Sandia Mountain Wilderness in the Cibola National Forest, New Mexico, by: (1) correcting the acreage figure and the forest boundary as established in Public Law 95-614; and (2) directing the Secretary of Agriculture in cooperation with the Secretary of the Interior to exchange approximately 32,800 acres of Federal lands in New Mexico with the City of Albuquerque for the 7,935.84-acre area to be added to the Cibola National Forest within 90 days of the date of enactment of this Act.

BACKGROUND AND NEED

The Elena Gallegos Grant is a major private holding owned by the Albuquerque Academy and surrounded on three sides by the Cibola

National Forest. The Gallegos Grant is adjacent to the city of Albuquerque. The area has the undeveloped wilderness attributes which form a scenic backdrop to the City. The rugged, steep terrain rises from the City limits to the crest of the Sandia Mountains, an elevation change of over 3,000 feet.

Public Law 95–614 enacted November 8, 1978, authorized the addition and acquisition of 7,461 acres of land (known as the Elena Gallegos Grant) to the Cibola National Forest in New Mexico. A condition of Public Law 95–614 stated that the city of Albuquerque would acquire a 640-acre tract immediately to the west of the Elena Gallegos tract of open space and a city park. The authorization for land acquisition was $12 million.

Public Law 96–248, enacted May 23, 1980, amended Public Law 95–614; to provide for the instant addition of the Elena Gallegos tract to the Sandia Mountain Wilderness when the Elena Gallegos tract was acquired; to raise the land acquisition ceiling to $20 million; to provide for forest boundary adjustments; and to change the city's requirement to an option to purchase 640 acres as "buffer" to the proposed wilderness.

Under the provisions of Public Law 96–248, approximately 6,423 acres of the Grant would become an addition to the approximately 30,000-acre Sandia Mountain Wilderness which was established by Public Law 95–237.

The last appraisal of the Elena Gallegos tract was made in 1980. The estimated cost was $18,000,000. No money has been appropriated to date.

The city of Albuquerque, the Albuquerque Academy, the Bureau of Land Management, Forest Service, the New Mexico Congressional delegation and others have proposed an alternative to Federal purchase of the Elena Gallegos Grant as authorized by Public Law 95–614 and Public Law 96–248. In mid-March 1982, an agreement was made between the city and the Academy whereby the city would purchase from the Academy 7,665.84 acres in fee plus a scenic easement on 270 additional acres in Bear Canyon (to be retained by the Academy). This sale would enable the Forest Service to exchange directly with the city using both NF system and BLM lands. The agreement reached provides for a revised wilderness boundary containing 160 fewer acres than authorized in the 1978 Act along the western boundary of the wilderness. S. 2405, as amended would implement this agreement.

Actions which will be required to complete the proposed exchange are:

1. The Bureau of Land Management [BLM] and the Forest Service [FS] sign in Interagency Agreement authorizing the FS to assume administration of certain BLM lands within New Mexico for purposes of exchange to acquire Elena Gallegos Tract.

2. The FS approves an exchange wherein the FS obtains 7,025.84 acres from the city of Albuquerque plus the 270 acres of scenic easement in Bear Canyon. The city obtains Federal lands of an equal domain (administered by FS as in No. 1 above).

3. The city of Albuquerque and the Regional Forester sign Land Exchange Agreement.

4. The City conveys Elena Gallegos Grant (7,025.84 acre in fee plus 270 acre scenic easement in Bear Canyon) to U.S. to be administered

as part of the Sandia Mountain Wilderness within Cibola National Forest. BLM regains administration of any public domain lands not needed in exchange.

5. The U.S. (BLM) issues patent to the city of Albuquerque to complete exchange.

6. The city of Albuquerque sells land obtained from U.S. to various parties as specified in separate agreements.

7. The city uses proceeds from sale to complete payment to the Academy.

8. The city retains 640 acres in Pina Arroyo for use as the Albert G. Simms City Park. The 640 acre park is to provide protection and access to the wilderness. An access road easement is given by the Academy to the City. The city pays to construct the road.

Legislative History

S. 2405 was introduced by Senator Domenici on April 21, 1982. A hearing before the Subcommittee on Public Lands and Reserved Water was held on May 27, 1982. The Administration supports the enactment of S. 2405 if amended. At a business session on August 18, 1982, the Committee on Energy and Natural Resources ordered S. 2405, as amended, favorably reported.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources in an open business session on August 18, 1982, by unanimous vote of a quorum present recommends that the Senate pass S. 2405, if amended, as described herein.

The rollcall vote on reporting the measure was 14 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield [1]	
Mr. Domenici	
Mr. Wallop	
Mr. Warner	
Mr. Humphrey	
Mr. Murkowski	
Mr. Nickles	
Mr. East [1]	
Mr. Heinz	
Mr. Jackson	
Mr. Bumpers	
Mr. Ford	
Mr. Melcher	

[1] Indicates voted by proxy.

Committee Amendments

The Committee adopted an amendment in the nature of a substitute offered by Senator Domenici. The amendment to S. 2405 was recommended by the Administration in the DOA's Executive Communication.

Section (1) of Public Law 95–614 is amended by adding a legal land description in addition to the map reference to describe the lands to be included in the Cibola National Forest. The total acreage figure was changed from 7,031.21 in S. 2405 as introduced, to 7,935.84 acres as reported.

Subsequent to the Committee's reporting of S. 2405, as amended, the following letter was received from the Forest Service on August 25, 1982.

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., August 25, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On June 3, 1982, the U.S. Department of Agriculture provided reports on S. 2021 and S. 2405, two bills pertaining to Federal acquisition of a portion of the Elena Gallegos Grant east of Albuquerque, New Mexico.

Our reports offered technical and clarifying amendments in the form of a substitute bill, a copy of which is enclosed. Of major concern was the need to amend Section 1 of P.L. 95–614 amending the boundary of the Cibola National Forest. Section (a) of our substitute bill included a metes and bounds survey description as illustrated on a plat of survey dated April 1982, prepared under the supervision of A. Dwain Walker, N.M.P.L.S. No. 6544.

Subsequent to our June 3 report and to the May 27 hearing before the Public Lands and Reserved Water Subcommittee, Mr. Weaver's plat of survey was revised on a subdivision plat entitled "Summary Plat of a Portion of the Elena Gallegos Grant" and recorded in the Office of the County Clerk of Bernalillo County, New Mexico, on June 29, 1982, in Volume C19, Folio 183.

The revised June 1982 plat was used in the description of the property conveyed from the City of Albuquerque to the United States. A copy of the deed signed on July 23, 1982, and recorded in Bernalillo County Record Book D166–A, pages 180–184 is enclosed.

The June 1982 plat and the July 23 deed describe the same lands as shown on the April 1982 plat and in our substitute bill. The proposed amended boundary of the Cibola National Forest does not change. The on-the-ground monuments have not changed. The surveyor merely made some technical changes in the plat.

To ensure that there is uniformity in the pending legislation, in the plat recorded with the county clerk in Volume C19, Folio 183, and in the deed to the United States recorded in Book D166–A, pages 180–184, we recommend that Section (a) of our June 3 substitute bill be revised by using the description used in the 2nd and 3rd paragraphs of the deed to the United States. We have identified this description in the enclosed copy of the Special Warranty Deed.

We regret any inconvenience this may have caused; however, at the time of the hearing the technical changes in the plat were not known.

Sincerely,

GARY E. GARGILL,
Associate Deputy Chief.

Enclosures.

SPECIAL WARRANTY DEED

The CITY OF ALBUQUERQUE, a New Mexico municipal corporation, Grantor, acting pursuant to the General Exchange Act of March 20, 1922 (42 Stat. 465, as amended; 16 U.S.C. 485-486) and the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716-1717), and in consideration of an exchange of certain public and National Forest lands equal in value to the lands herein conveyed, hereby grants to the UNITED STATES OF AMERICA, c/o USDA Forest Service, 517 Gold Avenue S.W., Albuquerque, New Mexico 87102, Grantee, and its assigns, the following described real estate situated in Bernalillo County, New Mexico:

All that portion of the Elena Gallegos Grant, lying east of a line depicted on a subdivision plat entitled "Summary Plat of a Portion of the Elena Gallegos Grant", (the "Summary Plat") recorded in the office of the County Clerk of Bernalillo County, New Mexico, on June 29, 1982, in Volume C19, Folio 183, consisting of eight (8) pages, said line being the western limits of the tract described herein being further described as follows:

BEGINNING at the closing corner between secs. 35 and 36 of T. 11 N., R. 4 E., NMPM, on the south boundary of said Grant; thence N. 00°03'21" E., 2,670.40 feet to a point; thence N. 00°03'21" E., 1,244.73 feet to the projected section corner common to secs. 25, 26, 35, and 36; thence continuing along the projected section line common to said secs. 25 and 26, N. 00°17'37" E., 1,346.11 feet to a point; thence leaving said section line and continuing S. 84°40'00" E., 178.00 feet to a point; thence S. 53°20'00" E., 218.00 feet to a point; thence N. 52°50'00" E., 364.00 feet to a point; thence East 225.00 feet to a point; thence N. 66°00'00" E., 1,244.14 feet to a point; thence N. 06°12'25" W., 1,765.08 feet to a point; thence N. 07°27'00" W., 2,008.00 feet to a point; thence S. 80°38'00" W., 984.00 feet to a point; thence S. 64°45'00" W., 621.00 feet to the projected section corner common to secs. 23, 24, 25, and 26; thence N. 00°44'22" W., 1,382.97 feet to the southeast corner of Sandia Heights South, Unit 14, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on February 12, 1975; thence continuing along the easterly boundary of said Unit 14, N. 00°04'20" E., 1,951.64 feet to the northeast corner of said Unit 14, said corner also being the southeast corner of Sandia Heights South, Unit 10, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 11, 1974; thence continuing along the easterly boundary of said Unit 10, N. 00°02'31" E., 1,493.53 feet

to the northeast corner of said Unit 10, said corner also being the southeast corner of Sandia Heights South, Unit 3, as the same is shown and designated on the plat filed in the office of the Count Clerk of Bernalillo County, New Mexico, on August 3, 1971; thence continuing along the easterly boundary of said Unit 3, N. 00°03'29" E., 1,867.10 feet to the northeast corner of said Unit 3, said corner also being the southeast corner of Sandia Heights South, Unit 2, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on October 20, 1970; thence continuing along easterly boundary of said Unit 2, N. 00°03'29" E., 1,869.70 feet to the northeast corner of said Unit 2, said corner also being the southeast corner of Sandia Heights South, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on June 20, 1966; thence continuing along the easterly boundary of said Sandia Heights South, N. 00°03'29" E., 1,725.76 feet to the Northwest corner of the tract herein described, said corner being a point on the northerly boundary of the Elena Gallegos Grant.

TOGETHER WITH rights of ingress and egress for National Forest administration and for public access to and across the proper herein conveyed, along and within a fifty (50) foot access re identified on the Summary Plat as Tracts D and E from Tramway Boulevard easterly to the westerly boundary of the 640-acre tract identified as Excepted Parcel 1 following;

LESS AND EXCEPTING THEREFROM;

Parcel 1--A certain tract of land situated within the boundaries of the parcel being conveyed, depicted on the Summary Plat as "Tract B, 640 Acre Park Site", and being more particularly described by New Mexico State plane grid bearings (Central Zone) and ground distances as follows:

Beginning at the northwest corner of the tract herein described, the TRUE POINT OF BEGINNING, from whence the mile post 7 1/2 on the northerly boundary of the Elena Gallegos Grant bears N. 00°47'56" E., 3,720.65 feet and S. 81°06'04" E., 481.50 feet; thence, N. 87°59'21" E., 1,331.79 feet to a point; thence, S. 21°17'39" E., 2,458.70 feet to a point; thence, N. 88°22'21" E., 3,212.50 feet to a point; thence, S. 02°20'39" E., 1,677.40 feet to a point; thence, S. 40°25'21" W., 4,494.50 feet to a point, thence, S. 01°05'39" E., 572.07 feet to the southeast corner of the tract herein described, thence continuing along the southerly boundary of the tract herein described, S. 88°54'21" W., 2,505.78

feet to the southwest corner of the tract herein described; thence, N. 00°41'29" W., 7,870.84 feet to the TRUE POINT OF BEGINNING, containing two acres, more or less.

Parcel 2--A certain tract of land situated within the boundaries of the parcel being conveyed, depicted on the Summary Plat as "Tract C, Bear Canyon Scenic Easement Area", and being more particularly described by New Mexico State plane grid bearings (Central Zone) and ground distances as follows:

Beginning at the southwest corner of the tract herein described, the TRUE POINT OF BEGINNING, from whence the closing corner of secs. 35 and 36, T. 11 N., R. 4 E., NMPM (having New Mexico State plane coordinates, Central Zone, X = 431,287.46; Y = 1,504,207.17) on the south boundary of the Elena Gallegos Grant, bears S. 40°02'20" W., 7,105.15 feet; thence, N. 01°05'39" W., 860.00 feet to the northwest corner of the tract herein described, thence continuing along the northerly boundary of the tract herein described, N. 77°27'19" E., 1,447.55 feet to a point; thence, S. 64°18'38" E., 2,801.07 feet to a point; thence, N. 43°01'28" E., 3,065.96 feet to a point; thence, N. 77°27'19" E., 500.00 feet to the northeast corner of the tract herein described; thence, S. 07°24'44" W., 1,923.59 feet to a point; thence, S. 39°56'46" W., 4,099.01 feet to the most southerly corner of the tract herein described; thence, N. 29°36'19" W., 2,409.57 feet to a point; thence, N. 75°08'13" W., 2,514.52 feet to the TRUE POINT OF BEGINNING, containing 270 acres, more or less.

Containing, after recognizing the exceptions, 7,025.84 acres, more or less, with special warranty covenants.

SUBJECT TO:

1. Reservation to the Albuquerque Academy or its assigns of all interest in and to all mineral rights (other than those reserved by the United States of America by Patent) and all oil and gas rights which mineral and oil and gas rights are subject to the regulations of the Secretary of Agriculture (36 CFR 251.15) "Conditions, Rules and Regulations to Govern Exercise of Mineral Rights Reserved in Conveyances to the United States" as the same may be amended from time to time; provided that no surface occupancy for the purpose of extracting minerals or oil and gas shall occur in the exercise of the rights reserved in this paragraph 1 on the portion of the lands herein conveyed that are included within the Sandia Mountain Wilderness so long as such lands within the Sandia Mountain Wilderness are withdrawn from all forms of surface entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States, but the preceding clause shall not prohibit Grantor from non-motorized entry at any time upon the lands conveyed within the Sandia Mountain Wilderness to explore and prospect for minerals, oil, and gas using non-surface disturbing methods, or from appropriating minerals or oil and gas from such lands within the Sandia Mountain Wilderness by

methods other than actual surface entry from the Sandia Mountain Wilderness lands; and provided further that if the mining and/or mineral leasing laws at any time permit entry onto and appropriation from the Sandia Mountain Wilderness lands for the purpose of mining or mineral or oil and gas extraction, Grantor, its successors and assigns may enter upon such lands of the Sandia Mountain Wilderness for the purpose of mining or extracting minerals and oil and gas to the extent permitted by law.

2. Reservation by the City of Albuquerque, Grantor, of a fifty (50) foot access road, depicted on the Summary Plat as Tract E, across a portion of the land herein conveyed to provide public access to the 640-acre parcel identified as Excepted Parcel 1, described preceding, subject to the rights granted the United States identified preceding.

3. Rights of ingress and egress to the 270-acre parcel identified as Excepted Parcel 2, described preceding, within and along the roadway depicted on the Summary Plat as the Bear Canyon Access Road Easement, as previously reserved by the Albuquerque Academy.

4. An easement, outstanding in the City of Albuquerque, for the existing Embudito Canyon training dike, as recorded on September 26, 1978, Misc. Bk. 641, pages 101-104, records of the County Clerk of Bernalillo County.

5. An easement, outstanding in the Albuquerque Metropolitan Arroyo Flood Control Authority, for construction and maintenance of the Upper Bear Canyon Training Dike, as recorded on April 25, 1979, Misc. Bk. 684, pages 789-792, records of the County Clerk of Bernalillo County, together with rights of access along the Access Road Easement to the Training Dike as depicted on the Summary Plat.

6. Reservation by the City of Albuquerque, Grantor, of an easement for a City water reservoir site, depicted on the Summary Plat as Tract F, a twenty (20) foot easement for an associated water line, and a fifty (50) foot easement for an associated service road, both as depicted on the Summary Plat.

7. Rights of the United States and third persons, if any, under the following reservations contained in the patent for the Elena Gallegos Grant:

   a. " * * * title to any gold, silver, or quicksilver mines or minerals of the same, but all such mines and minerals shall remain the property of the United States with the right of working the same."

   * * *

   b. " * * * limitations and terms of the Act of Congress of March 3, 1891."

8. Rights, if any, of claimants under mesne mining claims.

CITY OF ALBUQUERQUE,
a New Mexico municipal corporation

Harry E. Kinney, Mayor

ATTEST:

City Clerk

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me this 23rd day of July, 1982, by Harry E. Kinney, Mayor, on behalf of the City of Albuquerque, a New Mexico municipal corporation.

Notary Public

My Commission Expires:

OFFICIAL SEAL
JANET H. JOHNSON
NOTARY PUBLIC - STATE OF NEW MEXICO
My Commission Expires 2/24/85

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
FILED FOR RECORD

'82 AUG 23 AM 10:43

BK. D166-A 180-184

TERRY E. CUPP
COUNTY CLERK & RECORDER
DEPUTY

Lee Brunk

It is the Chairman's intention to offer the revised land description referred to in the August 25, 1982, letter as a technical amendment to S. 2405 as reported when the measure comes before the Senate.

The Committee notes that the total acreage figures for the tract vary from 7,031.21 in S. 2405 as introduced to 7,935.84 in S. 2405 as reported. The total area to be included within the boundary of the Cibola National Forest is 7,935.84 acres of which 640 acres is owned by the city of Albuquerque. The United States has rights on 7,295.84 acres. The Albuquerque Academy owned 270 acres within the area and has given an easement to the U.S. The U.S. owns 7,025.84 acres.

The Committee notes that the proposed boundary lines of the Cibola National Forest in S. 2405, as reported, do not change if the changes in the land description as proposed by the FS in the August 25, 1982 letter are adopted.

The Committee amendment adds a new Section (5) to Public Law 95-614. This section directs the Secretary of Agriculture to acquire the lands described in Section (1) by exchange. The Secretary of Agriculture in cooperation with the Secretary of the Interior, the city of Albuquerque, and the Albuquerque Academy is using the process outlined in the Background and Need section to effect the exchanges. The Academy has conveyed the title of the tract to the city of Albuquerque. The City has deeded the tract to the U.S.

S. 2405, as reported, identifies approximately 32,800 acres of Federal lands which have been identified for exchange, 29,600 acres are administered by the BLM and 3,200 acres are administered by the F.S. The Committee notes that the disposition of grazing permits on lands to be exchanged at the time of transfer would be subject to Section 402 (q) of the Federal Land Policy and Management Act (90 Stat. 2743).

S. 2405, as reported, directs the exchange to be made within 90 days of enactment. The Committee expects the Secretary to notify the Committee if the 90 day deadline is not met. The Committee expects the Secretary to work closely to expedite the process with all parties and political subdivisions in securing prompt appraisals, review and approval of the necessary procedures under laws governing exchanges.

Cost and Budgetary Considerations

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, D.C., September 1, 1982.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2405, a bill to amend the Act off November 8, 1978 (92 Stat. 3095, as amended) to authorize an exchange of lands with the city of Albuquerque, New Mexico, as ordered reported by the Senate Committee on Energy and Natural Resources, August 18, 1982.

Based on this review, it appears that no cost to the federal government would be incurred as a result of enactment of this legislation.

Sincerely,

ALICE M. RIVLIN,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2405 as reported.

S. 2405 is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses. S. 2405, as reported, would expedite the acquisition of a tract of land in New Mexico to be added to the Sandia Mountain Wilderness and would direct the Secretary of Agriculture to exchange certain other federal lands with the city of Albuquerque.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2405.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports and communications received by the Committee from the Department of Agriculture setting forth Executive Agency comments relating to S. 2405 are set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 3, 1982.

HON. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, here are our reports on S. 2021, a bill "To provide for the disposal of certain Federal lands in New Mexico and for the acquisition of certain other lands in Bernalillo County, New Mexico, to be purchased with the proceeds from the disposal of such Federal lands," and on S. 2405, a bill "To further amend the boundary of the Cibola National Forest to allow an exchange of lands with the city of Albuquerque, New Mexico."

The Department of Agriculture recommends that S. 2021 not be enacted and that S. 2405, if amended, be enacted in lieu thereof. For the convenience of the Committee, our technical and clarifying amendments to S. 2405 are in the form of a substitute bill which is enclosed.

We must point out that our recommendation is based on the fact that the land conveyance proposed by S. 2405 has been under development for several years and substantial commitments have been made by the City of Albuquerque and others. Land exchanges such as that proposed by S. 2405 represent a potential conflict with the President's real property disposal program. The Federal lands that would be conveyed are the type of lands that would be considered for sale under the President's program. Consequently, we would not expect to support such proposals in the future.

S. 2021 would direct the Secretaries of Agriculture and the Interior to dispose of certain Federal lands in New Mexico administered by the Bureau of Land Management and the Forest Service. The disposal would be subject to regulations developed by the two Secretaries and to the provisions of the Federal Land Policy and Management Act and other applicable law except to the extent necessary to carry out the provisions of the bill. Local governmental jurisdictions in New Mexico would jointly select the lands with the two Secretaries and, while not stated specifically in the bill, would be the recipients of the Federal lands. The bill also authorizes the Secretary of Agriculture, in cooperation with the Secretary of the Interior, to acquire by donation or by purchase up to 7,461.34 acres of privately owned lands and interest in lands in Bernalillo County, New Mexico. The acquisition of this land, known as the Elena Gallegos Grant, was authorized by the Act of November 8, 1978 (92 Stat. 3095, as amended). Once acquired, the lands would become a part of the Sandia Mountain Wilderness on the Cibola National Forest in accordance with a 1980 amendment to the 1978 Act (94 Stat. 355). Payment by the local governments for the Federal lands would be deposited into the general fund of the Treasury. But the amounts so deposited would be considered as payment for the private land authorized to be acquired by S. 2021.

S. 2405 would amend the 1978 Act that authorized the purchase of the Elena Gallegos Grant by directing the Secretary of Agriculture to acquire the Grant by exchange of lands rather than by purchase. The National Forest boundary established by the 1978 Act would be modified by S. 2405 to accommodate the exchange. The Federal lands to be exchanged would be selected from those administered by the Bureau of Land Management and the Forest Service in New Mexico. The bill would require that the exchange be completed within 90 days of enactment and provides for a waiver of certain provisions of Federal law applicable to land exchanges in order to accomplish this expedited action. Neither bill would affect the boundary of the Sandia Mountain Wilderness as established by the 1980 amendment to the 1978 Act.

The purpose of S. 2021 and S. 2405 is to expedite the acquisition of a 7,461-acre portion of the Elena Gallegos Grant so that it may be added to the Sandia Mountain Wilderness. The 1978 Act authorized the purchase with Land and Water Conservation Fund monies. However, budgets subsequent to 1978 have not designated the Grant lands to be of sufficient priority to allow appropriation of already scarce funds. The proposed acquisition was appraised at $18.5 million in 1980. It is not likely that funds will be appropriated in the foreseeable future.

We do not believe that the sale of Federal lands in New Mexico in an amount sufficient to offset the purchase of the Grant lands, as would be authorized by S. 2021, is a desirable alternative to purchase by appropriated funds. Acquisition in this way would establish a precedent that may encourage other communities or groups to seek Federal acquisition of land for a single purpose. The bill would also require a lengthy process that would be initiated by a regulation writing action, followed by a search for suitable lands to be sold, the sale (which may be several separate sales) and the subsequent purchase of the Grant lands.

It is our view that a land exchange, along the lines of that proposed by S. 2405, offers the best and most expeditious means of completing the action authorized by the 1978 Act. Action has been started at the local level to do this. The provision in S. 2405 to waive certain statutory requirements for land exchanges is essential to the prompt and efficient resolution of the exchange.

The Elena Gallegos Grant is presently owned by the Albuquerque Academy. The Academy has agreed to sell the tract to the City, who would in turn exchange the property with the Federal Government. The sale is expected to be consummated by July 1, 1982. In the exchange, the City would acquire Federal land in several locations in the State of sufficient value to equalize the value of the Grant as required by the Federal Land Policy and Management Act. About 32,800 acres of Federal lands have been identified for possible exchange; 29,600 acres of which are administered by the Bureau of Land Management and 3,200 acres are administered by the Forest Service. The actual number of acres required will be determined by appraisal. Conveyance of the Grant to the City, and subsequently to the United States, would be subject to a 270-acre scenic easement to be retained by the Academy as a condition on the sale of the Grant lands. The provision in the 1978 act that requires the City of Albuquerque to acquire an option to purchase 640 acres of land immediately to the west of the Grant lands to be used for open space or a city park would still be adhered to under S. 2405 although a different 340 acres would be involved. This is because the National Forest boundary modification described in section 1 of S. 2405 would incorporate into the National Forest the 640-acre tract delineated by the 1978 act. Instead, the City would acquire and hold for park and water reservoir use 640 acres adjacent on the east side of the original 640-acre tract. This tract would become surrounded by National Forest System lands.

We do recommend several changes to S. 2405 to correct and clarify the bill's provisions. Of major concern is the need to amend the 1978 act's description of the National Forest boundary by legal description in addition to map reference. The area encompassed by the revised boundary should be changed to 7,935.84 acres. The enclosed substitute bill contains these amendments in a revised format which we believe present the bill's provisions more clearly. Also enclosed is a map showing the present boundary and changes that would be made under the provisions of S. 2405.

S. 2405, if amended as we recommend, would not require the appropriation of additional funds. Costs of completing the exchange would be borne by ongoing programs.

The Office of Management of Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK,
Secretary.

Enclosures.

USDA SUPPLEMENTAL STATEMENT SUBSTITUTE FOR S. 2405

A BILL To amend the Act of November 8, 1978 (92 Stat. 3095, as amended) to authorize an exchange of lands with the City of Albuquerque, New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to expedite the acquisition of land authorized by the Act of November 8, 1978 (92 Stat. 3095, as amended), that Act is hereby amended as follows:

a. Amend section 1 to read as follows:

"A tract of land containing that part of the land described in the Elena Gallegos Grant, illustrated on maps on file with the Chief of the Forest Service, Department of Agriculture, lying east of a line depicted on plat of survey dated April 1982, prepared under the supervision of A. Dwain Weaver, N.M.P.L.S. No. 6544, and further described as beginning at the closing corner between sections 35 and 36 of Township 11 North, Range 4 East, NMPM, on the south boundary of said Grant and extending N. 00°03'21" E., 2,670.40 feet to a point; thence N. 00°03'21" E., 1,244.73 feet to the projected section corner common to sections 25, 26, 35, and 36; thence continuing along section line common to said sections 25 and 26, N. 00°17'37" E., 1,346.11 feet to a point; thence leaving said section line and continuing S. 84°40'00" E., 178.00 feet to a point; thence S. 53°20'00" E., 218.00 feet to a point; thence N. 52°50'00" E., 364.00 feet to a point; thence East 225.00 feet to a point; thence N. 66°00'00" E., 1,244.14 feet to a point; thence N. 06°12'25" W., 1,765.08 feet to a point; thence N. 07°27'00" W., 2,008.00 feet to a point; thence S. 80°38'00" W., 984.00 feet to a point; thence S. 64°45'00" W., 621.00 feet to the projected section corner common to sections 23, 24, 25, and 26; thence N. 00°44'22" W., 1,382.97 feet to the southeast corner of Sandia Heights South, Unit 14, as the same is shown and designated on the plate filed in the office of the County Clerk of Bernalillo County, New Mexico on February 12, 1975; thence continuing along the easterly boundary of said Unit 14, N. 00°04'20" E., 1,951.63 feet to the northeast corner of said Unit 14, said corner also being the southeast corner of Sandia Heights South, Unit 10, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on March 11, 1974; thence continuing along the easterly boundary of said Unit 10, N. 00°02'31" E., 1,493.53 feet to the northeast corner of said Unit 10, said corner also being the southeast corner of Sandia Heights South, Unit 3, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on August 3, 1971; thence continuing along the easterly boundary of said Unit 3, N. 00°03'29" E., 1,867.10 feet to the northeast corner of said Unit 3, said corner also being the southeast corner of Sandia Heights South, Unit 2, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on October 20, 1970; thence continuing along the easterly boundary of said Unit 2, N. 00°03'29" E., 1,869.70 feet to the northeast corner of said Unit 2, said corner also being the southeast corner of Sandia Heights

South, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on June 20, 1966; thence continuing along the easterly boundary of said Sandia Heights South, N. 00°03'29" E., 1,725.76 feet to the Northwest of the tract herein described, said corner being a point on the northerly boundary of the Elena Gallegos Grant; thence continuing along said Grant boundary, S. 81°06'04" E., 1,983.01 feet to a point; thence S. 81°06'04" E., 481.50 feet to the 7½-mile corner on the north boundary of said Grant; thence S. 81°06'04" E., 213.67 feet to the southeast corner of the Sandia Pueblo Grant; consisting of 7,935.84 acres, more or less: . . . ."

b. Add a new section 5 to read as follows:

"SEC. 5. (a) Notwithstanding any other provision of law, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, is authorized and directed to acquire the lands described in section 1 in lieu of purchase as authorized by section 4 of this Act by exchanging with the City of Albuquerque so much of the Federal lands administered by the Forest Service and Bureau of Land Management in the State of New Mexico and consisting of approximately 32,800 acres, more or less, as the Secretary of Agriculture and the Secretary of the Interior determine are needed to equal the value of the land conveyed by the City of Albuquerque:

(b) The lands to be conveyed are subject to valid existing rights.

(c) Transactions necessary to effect the exchange authorized by this section shall be made pursuant to the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and other applicable law except to the extent necessary to expeditiously carry out the provision of this section and shall be made within 90 days of enactment of this Act: *Provided*, That the rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed."

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 2405, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 95–614 (92 STAT. 3095)

AN ACT to amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico be modified to include the following described lands:

[A tract of land containing that part of the land described in the Elena Gallegos Grant, illustrated on maps on file with the Chief of the Forest Service, Department of Agriculture and the Director of the Bureau of Land Management, Department of the Interior, lying east of a line described as beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east on the south boundary of said grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence east 755 feet; thence north 11,386 feet; thence south 89 degrees 56 minutes 15 seconds west, 2,286.14 feet; thence north 0 degees 3 minutes 45 seconds west, 4,164.89 feet to the closing corner between sections 13 and 14 on the north boundary of said grant of said township; thence south 81 degrees 30 minutes east, 2,316.42 feet along the boundary of said grant to a point on the north boundary of said grant, which point lies north 81 degrees 30 minutes west, approximately 150 feet from the 7½-mile corner of said grant: consisting of 7,461.34 acres, more or less:] *A tract of land containing that part of the land described in the Elena Gallegos Grant, illustrated on maps on file with the Chief of the Forest Service, Department of Agriculture, lying east of a line depicted on plat of survey dated April 1982, prepared under the supervision of A. Dwain Weaver, N.M.P.L.S. No. 6544, and further described as beginning at the closing corner between sections 35 and 36 of Township 11 North, Range 4 East, NMPM, on the south boundary of said Grant and extending N. 00°03'21" E., 2,670.40 feet to a point; thence N. 09°03'21" E., 1,244.73 feet to the projected section corner common to sections 25, 26, 35, and 36; thence continuing along section line common to sections 25 and 26, N. 00°17'37" E., 1,346.11 feet to a point; thence leaving said section line and continuing S. 84°40'00" E., 178.00 feet to a point; thence S. 53°20'00" E., 218.00 feet to a point; thence N. 52°50'00" E., 364.00 feet to a point; thence E. 225.00 feet to a point; thence N. 66°00'00" E., 1,244.14 feet to a point; then N. 06°12'25" W., 1,765.08 feet to a point; thence N. 07°27'00" W., 2,008.00 feet to a point; thence S. 80°38'00" W., 984.00 feet to a point; thence S. 64°45'00" W., 621.00 feet to the projected section corner common to sections 23, 24, 25, and 26; thence N. 00°44'22" W., 1,382.97 feet to the southwest corner of Sandia Heights South, Unit 14, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County New Mexico on February 12, 1975; thence continuing along the easterly boundary of said Unit 14, N. 00°04'20" E., 1,951.63 feet to the northeast corner of said Unit 14, said corner also being the southeast corner of Sandia Heights South, Unit 10, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on March 11, 1974; thence continuing along the easterly boundary of said Unit 10, N. 00°02'31" E., 1,493.53 feet to the northeast corner of said Unit 10, said corner also being the southeast corner of Sandia Heights South, Unit 3, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on August 3, 1971; thence continuing along the easterly boundary of said Unit 3, N. 00°03'29" E., 1,867.10 feet to the northeast corner of said Unit 2, said corner also being the southeast corner of Sandia Heights South, Unit 2, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on October 20, 1970; thence continuing along the easterly boundary of said Unit 2, N. 00°03'29" E., 1,869.70 feet to the northeast*

corner of said Unit 2, said corner also being the southeast corner of Sandia Heights South, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on June 20, 1966, thence continuing along the easterly boundary of said Sandia Heights South, N. 00°03'29" E., 1,725.76 feet to the Northwest of the tract herein described, said corner being a point on the northerly boundary of the Elena Gallegos Grant; thence continuing along said Grant boundary, S. 81°06'04" E., 1,983.01 feet to a point; thence S. 81°06'04" E., 481.50 feet to the 7½-mile corner on the north boundary of said Grant; thence S. 81°06'04" E., 213.67 feet to the southeast corner of the Sandia Pueblo Grant; consisting of 7,935.84 acres, more or less: Provided, however, That the tract of land described in this section shall not be included within the Cibola National Forest until the Secretary of Agriculture determines that the City of Albuquerque, New Mexico, has acquired a tract of land containing approximately 640 acres located immediately to the west of such tract for open space or city park use.

SEC. 2. For the purpose of section 7 of the Act of September 3, 1964 (78 Stat. 903, as amended; 16 U.S.C. 460l–9) the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that Forest on January 1, 1965.

SEC. 3. (a) Subject to valid existing rights, lands owned by the United States in the tracts of land described in section 1 are hereby added to the Cibola National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(b) Land acquired by the Secretary of the Interior within the boundaries of Cibola National Forest as extended by this Act shall be transferred to the Secretary of Agriculture, shall be added to the Cibola National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

SEC. 4. Effective October 1, 1979, there are authorized to be appropriated not more than $12.000,000 from the Land and Water Conservation Fund for the acquisition of lands added to the Cibola National Forest by section 1 of this Act.

SEC. 5 (a) Notwithstanding any other provision of law, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, is authorized and directed to acquire the lands described in section 1 in lieu of purchase as authorized by section 4 of this Act by exchanging with the City of Albuquerque so much of the Federal lands administered by the Forest Service and Bureau of Land Management in the State of New Mexico and consisting of approximately 32,800 acres, more or less, as the Secretary of Agriculture and the Secretary of the Interior determine are needed to equal the value of the land conveyed by the City of Albuquerque.

(b) The lands to be conveyed are subject to valid existing rights.

(c) Transactions necessary to effect the exchange authorized by this section shall be made pursuant to the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and other applicable law except to the extent necessary to expeditiously carry out the provision of this section and shall be made within 90 days of enactment of this Act: Provided, That the rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed."

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